



Appeal Decision

Site visit made on 12 July 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 January 2023

Appeal Ref: APP/W1850/W/21/3289578

Land adjacent to Nellies Oak, Dinedor, Hereford HR2 6LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs R Tomkins against the decision of Herefordshire Council.
 - The application Ref 203397, dated 3 October 2020, was refused by notice dated 5 July 2021.
 - The development proposed is the removal of storage sheds and yard on brownfield site previously used by a painting and decorating company and the construction of a 3 bedroom detached 1.5 storey dwelling.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 15 August 2022.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council highlight a significant change in circumstances since the Council's decision. The Council advise that they are able to demonstrate a deliverable five-year housing land supply of 6.19 years which I will consider as part of my decision.
3. The Dinedor Neighbourhood Development Plan (NDP) has been 'made' since the appeal was submitted. I must make a decision based on the development plan at the time of my decision and as such I have paid regard to the NDP in consideration of the appeal.

Main Issues

4. The main issues are:
 - Whether the appeal site is an appropriate location for new housing having regard to the development plan and relevant national planning policies;
 - The effect upon protected species; and
 - The effect of the proposal upon the River Wye Special Area of Conservation (SAC).

Reasons

Appropriate location

5. The appeal site is located within an area known as Dinedor, which is formed of loose clusters of built form with swathes of open fields and countryside between them. Whilst Dinedor is identified as a settlement for new housing development in Policy RA2 of the Herefordshire Local Plan – Core Strategy (2015) (CS) the site is located outside the settlement boundary as defined in the NDP. Policy RA3 sets out that in rural locations outside of settlements, including those identified in Neighbourhood Plans, new housing will be limited to certain types of development, which does not include market housing. In addition, Policy A of the NDP supports new small scale market housing development within the settlement boundary of the village.
6. Despite the condition of the site, it is nonetheless beyond the defined settlement boundary of the village and located within open countryside. Whilst the nearest accessible settlement containing services and facilities is Hereford located a short distance from the site, the surrounding roads are devoid of footpaths and street lighting and there are no cycle routes linking the site. Walking and cycling to and from the site to local services would be extremely difficult and would be especially difficult for the young, the elderly and those with mobility issues. This would be particularly so during the hours of darkness and inclement weather.
7. Future occupiers would be overwhelmingly reliant on private vehicles to access services and facilities to meet their day-to-day needs. There are no realistic alternative modes of transport or footpaths that would be available for future occupiers. Consequently, the accessibility to services and facilities would be poor. This combination of factors demonstrates that the appeal site is not in a location where a new dwelling would be considered acceptable.
8. As such, I conclude that the proposed development would not be located within a suitable location for new housing contrary to Policies SS1, SS7, RA2 and RA3 of the CS which, amongst other things, seek to direct new development to or adjacent to settlements; focus development to the most sustainable locations and encourage sustainable travel options.
9. I note the council have referred to Policy SD1 in the reason for refusal, however, I find that with specific regard to this appeal I have given it negligible weight in coming to my decision.

Protected species

10. The Council's ecologist raised an objection to the planning application in respect of protected species, namely otters. Based on the evidence before me it appears that the appellant has addressed these concerns through the submission of an additional ecological report and Construction Environmental Management Plan. In the absence of any evidence to the contrary and based on the comments of the Council's ecologist I am satisfied that the appellant's evidence has overcome the Council's concerns in respect of the effect of the proposed development upon protected species.
11. As such, the proposed development would accord with CS Policies SS1, SS6 and LD2 which, amongst other things, seek to conserve and enhance environmental assets.

Other Matters

12. The appeal site is located within the River Lugg catchment area which forms part of the River Wye SAC. The Council's second reason for refusal relates to insufficient information in relation to drainage and foul water management in the context of the Habitat's Regulation Assessment. However, as I have found that the site would not be an appropriate location for housing which is significant enough to dismiss the appeal there is no benefit in me pursuing this matter any further, notwithstanding the appellant's evidence and the comments made by the Council's Ecologist.
13. I acknowledge that the National Planning Policy Framework encourages the efficient use of land including brownfield sites, that the proposed development would incorporate green technologies and landscaping and that it may well reduce the appellant's carbon footprint through reduced travel. However, these factors either individually or cumulatively would not outweigh the harm identified.
14. I note the appellant's personal circumstances and have given it careful consideration. I am mindful of the advice contained in the Planning Practice Guidance that in general planning is concerned with land use in the public interest. It is also probable that the proposed development would remain long after the current personal circumstances cease to be material. For these reasons, I find that this factor is not sufficient to outweigh the harm that I have identified.
15. The existing condition of the site and its structures is not justification for a scheme that I have found to be harmful. The comments of the Parish Council count neither for nor against the proposal.

Planning Balance

16. I acknowledge that when the application was determined the Council was unable to demonstrate a deliverable five-year supply of housing land. However, the situation has changed. Whilst the appellant questions whether the Council can demonstrate a deliverable five-year supply of housing there is no substantive evidence before me to refute the Council's position outlined in their latest Annual Position Statement. As such, there is a strong indication that a deliverable five-year supply of housing exists. Consequently, paragraph 11(d) of the Framework is not engaged. Planning law requires that applications for planning permission, should be determined in accordance with the development plan, unless material considerations indicate otherwise.
17. Even if the Council was not able to demonstrate an adequate supply of housing land, the proposal would make only a small contribution to the area's housing supply and its social, economic and environmental benefits would be limited.

Conclusion

18. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR